IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 4TH SEPTEMBER 2007 / 13TH BHADRA 1929

CRP.No. 2541 of 2001(A)

(AGAINST THE ORDER DATED 30/09/2000 IN E.A.157/2000 IN E.P.123/99 OS.716/1993 ON THE FILE OF IST ADDL.SUB COURT,TRIVANDRUM)

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REVN. PETITIONERS:APPELLANTS:DEFENDANTS 1 AND 2:

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1. M/S. NATIONAL INSURANCE COMPANY LTD., REPRESENTED BY ITS CHAIRMAN AND MANAGING DIRECTOR, HAVING ITS REGISTERED OFFICE AT NO.3, MIDDLETON STREET, CALCUTTA.

2. THE SENIOR DIVISIONAL MANAGER, NATIONAL INSURANCE CO.LTD., ST.JOSEPH'S PRESS BUILDING, VAZHUTHACAUD, THIRUVANANTHAPURAM.

(THE 1ST REVISION PETITIONER IS REPRESENTED BY THE 2ND REVISION PETITIONER, WHO IS DULY AUTHORISED AND EMPOWERED TO REPRESENT THE 1ST REVISION PETITIONER)

BY ADV. SRI.R.S.KALKURA

RESPONDENT:RESPONDENT:PLAINTIFF:

M/S. PATTU AGENCIES KOWDIAR, REPRESENTED BY KHURSHIDA HUSSAN (OWNER) TC.4/2022, MUMMY'S COLONY, THIRUVANANTHAPURAM.

BY ADV.

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 04/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

M.N.KRISHNAN, J

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C.R.P. No.2541 OF 2001

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Dated this the 4th day of September 2007

O R D E R

This revision petition is preferred against the order of the I Addl.Sub Court, Thiruvananthapuram in E.A.No.157 of 2000 in O.S.No.716 of 1993. The revision petitioner is the National Insurance Company and the plaintiff had obtained a decree against the defendant in the suit for realisation of the amount and an appeal, A.S.No.446 of 2000 is pending before this court. Since there was no extension of stay, execution petition has been preferred wherein the court has ordered to freeze an amount of Rs.20 lakhs under the garnishee proceedings and it has been done. I am afraid that such a course need not be adopted in a case of this nature where the defendant is an instrumentality of the State and there cannot be any valid apprehension that the amount will become nonrealisable. There is no point in freezing an amount of Rs.20 lakhs when the matter is pending before this court in appeal.

Therefore, I set aside the order passed by the learned I Addl.Sub Court and direct the amount to be released. But in order to make it safe for

the plaintiff in the case, I direct the National Insurance Company to file an affidavit to the effect that it shall comply if ultimately the appeal is disposed of, will deposit the amount, as ordered by the court below without time lag. On filing the said affidavit, the court below is directed to communicate the bank to lift the freezing of account with respect to Rs.20 lakhs as ordered by the court below.

C.R.P. is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-